

## Tilburg University

### Executive Summary

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# Executive Summary

## Europe, a continent of migrations

Migration is deeply rooted in Europe's history and identity. Migrants are an integral part of European society and contribute to its diversity and dynamism. Today the European Union has become a major destination for immigrants from all parts of the world. Seen as a land of prosperity and liberties, Europe attracts a great number of immigrants seeking to better their lives and those of their families. People desperately try to reach Europe on planes, boats, trucks or on foot – often risking their lives – to escape from hunger, poverty, war and persecution. Similar motives once pushed millions of Europeans to migrate to the Americas and Oceania.

The European Union consistently presents itself as a key player in development aid and as a fervent defender of Human Rights. Indeed the Lisbon Treaty that will soon provide the legal basis for the European Union identifies the rule of law and respect for human rights, both inside and outside the Union, as founding values. However, European immigration and asylum policies are not always in line with development objectives, as this report shows. They often contradict international Human Rights standards, notably the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child. In addition they do not always comply with the European Social Charter.

## Making migration work for development

The interdependence between migration and development has been widely debated during the last decade. There is broad agreement among policy-makers and academics that migration can significantly benefit migrants' countries of origin and countries of destination, as well as the migrants themselves.

The World Bank claims that a 3% increase in the numbers of migrants in high-income countries would result in a \$356 billion increase in global income. The Human Development Report 2009 'Overcoming barriers: Human mobility and development' indicates that "[m]ost migrants, internal and international, reap gains in the form of higher incomes, better access to education and health and improved prospects for their children."

The EU also acknowledges that "Migration, if properly managed, can contribute to the reduction of poverty in developing countries." As part of its 'Policy Coherence for Development' project, launched in 2005, the EU made a commitment to strive towards minimizing the negative effects of migration and maximize its benefits, both for recipient countries and the migrants' countries of origin. In its 'Global Approach to Migration' adopted by the European

Council in the same year, the EU promoted "a comprehensive and balanced approach in dealing with migration issues in partnership with third countries". More recently, the European Pact on Immigration and Asylum, adopted in 2008, aims to "create a comprehensive partnership with the countries of origin and transit and encourage the synergy between migration and development".

Despite broad recognition of the benefits of migration, EU immigration policies primarily focus on preventing and controlling migration to Europe. Its so-called 'cooperation' with migrants' countries of origin and transit mainly consists in offering incentives to combat irregular migration. The European Pact encourages the conclusion of EU-wide and bilateral agreements with those countries in which increased opportunities for legal migration are made in exchange for the origin countries' commitment to participate in the control and readmission of undocumented migrants. European development aid to these countries becomes increasingly conditional on their adoption of 'Readmission Agreements' by which signatory states commit themselves to readmit into their territory, not only their nationals who were apprehended while residing irregularly within the territory of a foreign state, but also other foreigners who transited through their territory. Such policies are at odds with the EU's commitment to enhance the contribution of migration to development. As Peter Verhaeghe points out in the chapter on the "Coherence between Migration and Development policies", increasing border controls and the fight against 'irregular immigration' do not serve development nor contribute to the achievement of the Millennium Development Goals. On the contrary, by making development conditional on cooperation in border control, the EU is turning development aid into a tool for its immigration policy. Using the case of France, Sonia Lokku and Katia Herrgott explain that using aid to fight against migration is not only subverting the Union's development objectives, but is also counterproductive.

Louisa Vogiazides highlights a further inconsistency between Europe's discourse and practice in relation to migrants' remittances. While the EU officially recognizes the development potential of remittances, little action has been taken by European governments to facilitate remittance flows, notably by lowering the cost to remit.

While European countries strive to contain the irregular immigration of low skilled workers, they are far more welcoming towards highly qualified and experienced specialists. In June 2009 The European Council approved the introduction of a 'Blue Card' to facilitate the entry and residence in the EU of third-country nationals for the purpose of highly qualified employment. The emphasis on attracting highly

qualified workers is part of Europe's efforts to shape its immigration policies according to the needs and reception capacities of national labour markets, so-called 'migration management'. 'Choosing migrants' according to European economic needs may help Europe, but does not necessarily serve the development of the countries from which the migrants are drawn. Attracting highly qualified people from developing countries contributes to the brain drain of skills that are vitally needed for a country to develop, particularly if such recruitment is not accompanied by measures that ensure adequate skills remain within the countries concerned. The consequence is that development is undermined with the investment incurred by developing countries in training skilled workers subsidising the European economy. The recruitment of healthcare professionals from developing countries, for instance, tends to put a severe strain on many already fragile healthcare systems. The ability to achieve the targets for health contained in the Millennium Development Goals, to which the EU and its Member States are committed, are subsequently jeopardised.

The concept of 'circular migration' has been put forward as a means to mitigate the damaging effects of brain drain. It is argued that migrants will return to their home country, often bringing back new skills and capital, and so contribute to their own countries' development. However, as Simon Hartmann and Margarita Langthaler warn in "The Race for the Best: a European Perspective on the Brain Drain", as long as the EU is setting the rules, circular migration is more likely to be instrumentalised in favour of Europe's economic interests.

The EU's recognition of the development potential of migration is certainly a good thing. However, until now, such recognition appears to be more rhetoric than reality. While European immigration policies are needed, these need to be shaped in ways that help deliver development, and do not only address Europe's self-oriented security and economic interests.

## Migrants' rights: in need of recognition

The gap between Europe's discourse and practice is also reflected in the treatment of immigrants. Although the EU positions itself as a promoter and defender of human rights, both internally and abroad, respect of migrants' rights is far from guaranteed. Human Rights violation may be related to the hardships of the journey to reach the EU, to the circumstances of expulsion of undocumented migrants and to the difficult living and working conditions in the countries of destination.

For a vast number of migrants the journey to Europe involves a great amount of hardships. Examples of such hardships abound. In July 2009, 73 African migrants trying to reach Italy from Libya perished at sea after drifting for three weeks in the Mediterranean. During this time 10 ships reported their predicament, but no action was taken by

European authorities. Taking just the cases documented in the press since 1988, 14,794<sup>1</sup> have died trying to reach EU borders. This astonishing figures show with painful clarity that restrictive immigration laws are indeed deadly.

“A friend of mine is informed that about 290 Eritreans are at this instant (Friday October 23, about 3:00 pm GMT) trapped in the middle of the sea trying to cross from Libya to Italy. The motor of the ship failed and huge waves are troubling them. Contact number of the guy who happens to be among those in the boat: 00882164446xxx. They are looking for help.”

Message to MvR, 23/10/09, in file

In recent years the EU has doubled its efforts for border control. An agency of European police for external borders, Frontex, was established in Warsaw in 2007 to co-ordinate operational co-operation of the EU's external borders. In addition, 'Readmission Agreements' with migrants' countries of origin have been established which seek to prevent and combat irregular immigration. Referring to the case of Malian migrants, Ousmane Diarra explains that 'forced returns' often involve degrading treatment and violations of Human Rights. As Colette De Troy and Natalia Kovaliv argue, restrictive immigration policies and stricter border controls make migrants, especially women and children, more vulnerable to human trafficking.

The widespread use of detention of undocumented migrants and asylum-seekers is another alarming issue. People, whose 'crime' is to seek a better life or to escape from persecution find themselves deprived of their freedom for up to 18 months. As described by many authors in this report, the living conditions in detention centres often do not meet standards of human dignity. The EU is outsourcing immigration controls beyond its frontiers by building detention camps in neighbouring countries often lacking any acceptable control mechanisms with respect to the adherence to fundamental human rights. The Spanish Commission for the Help to the Refugee analyses the case of the Nouadhibou centre in Mauritania.

Migrant's hardships are not necessarily over once they have reached European soil. Migrant workers contribute substantially to European economies, even though the majority of them work in rather unwelcoming labour markets and poor conditions. They are often relegated to low-skilled and low-paid jobs, representing a cheap and flexible labour force, doing jobs which other people are unwilling to do. Undocumented migrants are vulnerable to maltreatment and exploitation. A great portion of migrants are ineligible for social benefits and have no organised representation, which makes them more economically attractive to employers. Documented workers are also at risk when rules

on migration are too strict, especially when their residence and work permits are tied to one specific employer. Permits for low-skilled workers tend to be less flexible and protective than permits for highly skilled workers. Complex rules on migration also mean that migrant workers have a greater chance to become undocumented at a certain point. The situation of migrants' has worsened in the current financial and economic crisis, as they tend to be the first to lose their job.

As pointed out by Nicola Flamigni and René Plaetevoet, it is particularly worrying that the European Union member states have not ratified the UN Migrant Workers Convention<sup>2</sup> which aims at guaranteeing all migrant workers and members of their families the same fundamental human rights as nationals – regardless of their legal status. The Convention does identify a further number of specific situations of equal treatment that are valid only for documented migrants.

Next to difficult working conditions, migrants also face emotional hardships which can include experiences of exclusion, discrimination and racism. Xenophobic feelings in Europe are increasing as shown by the level of support given to extreme right parties during the European Parliament's elections in June. As Luciano Scagliotti argues, the link established in public discourse between insecurity, immigrants and members of ethnic minorities has fuelled and legitimised widespread racist and xenophobic attitudes. Inequality and discrimination against minorities is also reflected in European social systems. Eve Geddie explains that the fundamental rights to health and education for undocumented migrants are not guaranteed. There remains a large gap between the theoretical entitlements granted by law and the reality experienced by migrants in practice.

Amandine Bach argues that migrant women are particularly prone to suffer from discrimination and inequalities. The EU's current legal framework is gender biased and does not take into account the specific needs of female migrants. Marco Perolini explains that young migrants are also particularly vulnerable even though they represent an important social, cultural and economic contribution to European society.

### The way forward

The migration pressures that Europe faces are the result of the inequalities that exist between itself and many countries in its neighbourhood and beyond. The European Union will remain a magnet for people seeking a better life, regardless of the risks they face, until the differences in opportunity at home and in Europe become more equal. Any attempt to halt irregular migration will fail and be harmful as long as the people in question are not offered valid and

legal alternatives for the development of themselves and their families, either in their country of origin or in the destination country. In consequence, development policy is inextricably linked with approaches to migration.

While the link between migration and development is broadly acknowledged, European immigration policies pay little real attention to development objectives. This needs to change, so as to ensure a common coherent approach that brings development objectives and migrants' rights to the centre of immigration strategies.

In the first instance, the positive contribution that migration brings to both Europe and countries of origin needs to be continually re-affirmed. At present, in Europe migration generally bears a negative connotation. Migrants are often accused of taking the jobs of nationals, bringing insecurity and threatening cultural and social cohesion. Yet, Europe should recognize the tremendous contribution of migrants to society – economical, social and cultural. From an economic perspective, migrants offer their skills and their often cheap labour. They contribute to the national treasury by paying taxes, and to the economy in general as consumers. In addition, migration greatly enhances Europe's diversity and dynamism.

Migration should be celebrated for its contribution to Europe. Immigration policies should be built on a positive approach to migration, recognizing benefits both for migrants' countries of origin and countries of reception.

The European Union and the authorities of its member states have the responsibility to ensure respect for the human rights of migrants, not only within its own borders but also in countries with which there are agreements relating to migrants. An end should be put to any form of degrading treatment in the course of a repatriation procedure. European governments need to make all possible efforts to avoid and address migrant workers' exploitation. They should combat racism and discrimination of migrants in employment, education and health. While undocumented migrants may not benefit from the same level of rights as those with documents, their basic rights to live in dignity and to have access to healthcare and education should be guaranteed. Any failure by Europe to implement its approach to migrants in accordance with its values as set out in the Treaty and legal obligations undermines its legitimacy. In part the ratification of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families by the European Union and its Member States would be a positive step in the right direction. So too would be their endorsement of the Revised European Social Charter with its provisions for migrant workers and their families.

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1 Source: <fortresseurope.blogspot.com>

2 The official name of the Convention is 'The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families'.